



17 OCT 2003

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In re Application of	:	
YOUNGQUIST et al.	:	
Application No.: 09/980,352	:	DECISION ON PETITION
PCT No.: PCT/US00/05194	:	UNDER 37 CFR 1.181
Int. Filing Date: 01 March 2000	:	
Priority Date: 01 June 1999	:	
Attorney Docket No.: 092271-9010	:	
For: BIARYL COMPOUNDS	:	

This is a decision on applicants' "Renewed Petition for Withdrawal of Abandonment under 37 CFR 1.181," filed in the Patent and Trademark Office (PTO) on 19 September 2003. No petition fee is due.

### **BACKGROUND**

On 01 March 2000, applicants filed international application PCT/US00/05194 which claimed a priority date of 01 June 1999 and designated the United States. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States was midnight, 01 December 2001.

On 30 November 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and a preliminary amendment.

On 08 January 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 19 November 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification of Missing Requirements mailed 08 January 2002 within the time period set therein.

Application No.:09/980,352

On 17 December 2002, applicants filed "Petition to Withdraw a Holding of Abandonment under 37 CFR 1.181" which included an executed declaration of inventors.

On 14 April 2003 and 21 May 2003, applicants submitted a copy of the papers filed 17 December 2002.

In a decision dated 01 July 2003, applicants' "Petition to Withdraw a Holding of Abandonment under 37 CFR 1.181" filed 17 December 2002 was dismissed without prejudice and the application remained abandoned.

On 19 September 2003, applicants filed a renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 and a petition for a one-month extension of time and the requisite petition fee.

### DISCUSSION

With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement). The 01 July 2003 decision indicated that applicants satisfied item (1).

Concerning item(2) above, applicants have provided a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received.

As to item (3), applicants have submitted a copy of the docket records for 08 March 2002 indicating all applications for which a response was due on said date. The above-identified application is not among the patent applications listed on the attached docket record. Therefore, since applicants have satisfied Items (1), (2), and (3) above, the request may be properly granted.

### CONCLUSION

For the reasons above, the request is **GRANTED**. The holding of Abandonment is withdrawn.

The application has an international filing date of 01 March 2000 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **17 December 2002**.

Application No.:09/980,352

This application is being returned to the United States/Designated Elected Office for processing in accordance with this decision.

A handwritten signature in black ink, appearing to read "Anthony Smith", with a stylized flourish at the end.

Anthony Smith

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